

Appendix C

Current Status of TMDL Development in Virginia

Virginia Department of Environmental Quality

In 1997, the Virginia General Assembly enacted the Water Quality Monitoring, Information, and Restoration Act (WQMIRA), §62.1-44.19:4 through 19:8 of the Code of Virginia. This statute directs DEQ to develop a list of impaired waters, Total Maximum Daily Loads (TMDLs), and implementation plans for these waters.

Cooperative Effort

The Department of Conservation and Recreation (DCR) and the Department of Mines, Minerals, and Energy (DMME) have signed Memoranda of Understanding with DEQ agreeing to a cooperative effort in the TMDL and Implementation Plan development processes. DCR assists with the development of the nonpoint source components of TMDLs. DMME assists with TMDLs involving pollutants from mineral extraction activities. The Virginia Department of Health also participates in a cooperative effort by assisting in the development of TMDLs for impaired shellfish waters.

TMDL Schedule

In 1998, the American Canoe Association and the American Littoral Society filed a complaint against the EPA for failure to comply with the provisions of §303(d) of the Clean Water Act in Virginia. As a result, EPA signed a Consent Decree with the plaintiffs in 1999 that contains Virginia's TMDL development schedule through year 2010. Also, under the Consent Decree, EPA agrees to develop TMDLs on these impaired waters to meet the schedule if Virginia fails to do so.

The WQMIRA (§62.1-44.19:4 et seq.) directs DEQ to generate a list of impaired waters, develop TMDLs for these waters, and develop Implementation Plans to meet the TMDL objectives. DEQ administers the TMDL process and formally submits the TMDLs to EPA for approval. Once EPA approves a TMDL, the Virginia State Water Control Board must also approve it.

Virginia currently has to develop TMDLs for 665 segments of impaired waters by 2010 under the Consent Decree schedule. To date, EPA has approved 51 TMDLs in Virginia covering 36 Consent Decree waters. Several others are in progress (see 2002 TMDL status spreadsheet attached). By May 1, 2004, an additional 115 TMDLs, covering 81 more Consent Decree waters, will be completed and submitted to EPA (see 2004 TMDL schedule attached).

TMDL Implementation Plans

Section 303(d) of the Clean Water Act, and current EPA regulations do not require the development of TMDL implementation strategies. However, WQMIRA directs DEQ in section 62.1-44.19.7 to “develop and implement a plan to achieve fully supporting status for impaired waters”. The Act also establishes that the implementation plan shall include the date of expected achievement of water quality objectives, measurable goals, corrective actions necessary and the associated cost, benefits and environmental impact of addressing the impairments. To date Virginia has completed three implementation plans that address 13 of the EPA approved TMDLs.